

14 Am. Jur. 2d Carriers Two XXVII A Refs.

American Jurisprudence, Second Edition | May 2021 Update

Carriers

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Part Two. Carriage of Property

XXVII. Liability for Arrest and False Imprisonment

A. In General

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Research References

West's Key Number Digest

West's Key Number Digest, [Carriers](#) 350, 375

West's Key Number Digest, [False Imprisonment](#) 1 to 16, 20

A.L.R. Library

A.L.R. Index, Carriers

A.L.R. Index, Passengers

A.L.R. Index, Transportation

West's A.L.R. Digest, [Carriers](#) 350, 375

West's A.L.R. Digest, [False Imprisonment](#) 1 to 16, 20

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14 Am. Jur. 2d Carriers § 1145

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Part Two. Carriage of Property

XXVII. Liability for Arrest and False Imprisonment

A. In General

§ 1145. Carrier's liability for arrest and false imprisonment, generally; conduct within the scope of employment

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West's Key Number Digest

West's Key Number Digest, [Carriers](#) 350, 375

West's Key Number Digest, [False Imprisonment](#) 1 to 15, 20

A common carrier is liable for a false arrest or imprisonment that is caused or procured by its agents or employees acting within the course and scope of their employment.¹ Thus, for example, a passenger who has been wrongfully expelled from a bus or wrongfully arrested on a bus driver's request may recover from the carrier such damages as the jury considers actual compensation for the unlawful invasion of the passenger's rights and any injuries to the passenger's person or feelings.²

Where a common carrier's liability for false arrest or imprisonment is predicated upon the doctrine of respondeat superior, the exoneration or release of its employee or agent precludes a finding of liability against the common carrier.³

Caution:

A bus driver, in expelling or requesting the arrest of a passenger, acts at the driver's peril, and the driver's wrongful expulsion or arrest of the passenger is not excused merely because the driver acted under a misapprehension in supposing that the passenger had been guilty of misconduct.⁴

Practice Tip:

A bus passenger's complaint stated a claim for false imprisonment against a transportation agency under the doctrine of respondeat superior even though the passenger did not specifically state she was basing her claim against the agency on respondeat superior where the complaint alleged that the bus driver was working as a bus driver for the agency at the time the passenger was placed under false arrest resulting from a dispute as to whether the passenger had proper identification to ride the bus as a disabled senior.⁵

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Footnotes

¹ Burke v. New York, New Haven & Hartford Railroad Co., 267 F.2d 894 (2d Cir. 1959); Atkinson v. Dixie Greyhound Lines, 143 F.2d 477 (C.C.A. 5th Cir. 1944); Southern Ry. Co. v. Beaty, 212 Ala. 608, 103 So. 658 (1925); Missouri Pac. R. Co. v. Hill, 200 Ark. 253, 138 S.W.2d 783 (1940); Spain v. Oregon-Washington R. & Nav. Co., 78 Or. 355, 153 P. 470 (1915); Keidel v. Baltimore & O. R. Co., 281 Pa. 289, 126 A. 770 (1924); Mangum v. Norfolk & W. Ry. Co., 125 Va. 244, 99 S.E. 686, 5 A.L.R. 346 (1919); Johnson v. Norfolk & W. Ry. Co., 82 W. Va. 692, 97 S.E. 189, 6 A.L.R. 1469 (1918); Hotzel v. Simmons, 258 Wis. 234, 45 N.W.2d 683 (1951).

As to what constitutes false arrest or imprisonment, generally, see [Am. Jur. 2d, False Imprisonment §§ 1 et seq.](#)

² [Safeway Trails, Inc. v. Schmidt, 225 A.2d 317 \(D.C. 1967\).](#)

As to recovery for mental disturbance, generally, see [Am. Jur. 2d, Fright, Shock, and Mental Disturbance §§ 1 et seq.](#)

³ St. Louis & S.F.R. Co. v. Wyatt, 84 Ark. 193, 105 S.W. 72 (1907); Redgate v. Southern Pac. Co., 24 Cal. App. 573, 141 P. 1191 (3d Dist. 1914); Goines v. Pennsylvania R. Co., 3 A.D.2d 307, 160 N.Y.S.2d 39 (1st Dep't 1957); El Paso Elec. Ry. Co. v. Crews, 277 S.W. 732 (Tex. Civ. App. El Paso 1925), writ dismissed w.o.j., (Feb. 10, 1926).

As to the effect of the exoneration or release of an employee on an employer's liability, generally, see Am. Jur. 2d, Employment Relationship §§ 367, 368.

⁴ Safeway Trails, Inc. v. Schmidt, 225 A.2d 317 (D.C. 1967).

⁵ Arpin v. Santa Clara Valley Transp. Agency, 261 F.3d 912 (9th Cir. 2001).

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14 Am. Jur. 2d Carriers § 1146

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Part Two. Carriage of Property

XXVII. Liability for Arrest and False Imprisonment

A. In General

§ 1146. Carrier's liability for arrest and false imprisonment; conduct outside the scope of employment

[Topic Summary](#) | [Correlation Table](#) | [References](#)

West's Key Number Digest

West's Key Number Digest, [Carriers](#) 350, 375

West's Key Number Digest, [False Imprisonment](#) 1 to 15

A.L.R. Library

[Principal's liability for punitive damages because of false arrest or imprisonment, or malicious prosecution, by agent or employee](#), 93 A.L.R.3d 826

A common carrier is liable for a false arrest or imprisonment that is caused or procured by its agents or employees even where the employees act outside the scope of their express or implied authority if the common carrier subsequently ratifies the employees' unauthorized act.¹ The liability of a common carrier for a false arrest or imprisonment of a passenger while being transported under the protection of the carrier's employees to whom the carrier has delegated the performance of the contract of carriage has been held to rest upon joint tortfeasance or

breach of contract and not upon agency. Therefore, the carrier may be held liable for the wrongful arrest or imprisonment even though the employee who caused it was not acting within the scope of employment.² However, a common carrier has been absolved from liability where the false arrest or imprisonment was caused by its employee or agent not for the purpose of protecting its property or interest but to vindicate public justice or to redress an offense against society or to punish the offender for something already done even though the wrongful act has its origin in some agency relationship with the carrier.³

Practice Tip:

There is a clear line between the action of an agent of a carrier in merely notifying the police of a violation of law or identifying persons at the request of a police officer and the agent's action in going beyond mere notification or identification and by some additional act procuring, causing, directing, or participating in an arrest or ejection. Liability in the latter cases rests upon joint tortfeasance or breach of contract and not upon agency.⁴

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¹ [Southern Ry. Co. v. Beaty](#), 212 Ala. 608, 103 So. 658 (1925); [Keidel v. Baltimore & O. R. Co.](#), 281 Pa. 289, 126 A. 770 (1924).

A streetcar company ratified a false arrest caused by its conductor where after it had been notified of the facts, its attorneys appeared and prosecuted the plaintiff on a charge of disorderly conduct. [Virginia Electric & Power Co. v. Wynne](#), 149 Va. 882, 141 S.E. 829 (1928).

² [St. Louis, I.M. & S. Ry. Co. v. Tukey](#), 119 Ark. 28, 175 S.W. 403 (1915); [Elliott v. Philadelphia & Camden Ferry Co.](#), 83 N.J.L. 625, 83 A. 899 (N.J. Ct. Err. & App. 1912); [McLeod v. New York, C. & St. L.R. Co.](#), 72 A.D. 116, 76 N.Y.S. 347 (1st Dep't 1902); [Texas Midland R.R. v. Dean](#), 98 Tex. 517, 85 S.W. 1135 (1905).

³ [Southern Ry. Co. v. Beaty](#), 212 Ala. 608, 103 So. 658 (1925); [Arkansas Central Power Co. v. Hildreth](#), 174 Ark. 529, 296 S.W. 33 (1927).

⁴ [Matthews v. Southern Ry. System](#), 157 F.2d 609 (App. D.C. 1946).

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14 Am. Jur. 2d Carriers § 1147

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Part Two. Carriage of Property

XXVII. Liability for Arrest and False Imprisonment

A. In General

§ 1147. Carrier's liability for arrest of passenger for evasion of, or in dispute over, payment of fare

[Topic Summary](#) | [Correlation Table](#) | [References](#)

West's Key Number Digest

West's Key Number Digest, [Carriers](#) 350, 375

West's Key Number Digest, [False Imprisonment](#) 1 to 15

Where a statute makes the nonpayment or evasion of payment of a fare a criminal offense, a common carrier is justified in causing the arrest of a passenger on this charge provided there are reasonable grounds for the belief that the passenger committed this crime and that the arrest is lawfully made.¹ Under such a statute, an offer to pay the fare made by a passenger after being arrested for attempting to evade payment does not make the arrest unlawful so as to permit recovery against the common carrier for it.²

Caution:

Under a statute making it a misdemeanor to evade payment of a fare, to justify the arrest of a passenger for refusal to pay the fare, the railroad employee causing the arrest must believe, on reasonable grounds, that the passenger is guilty of the offense set out in the statute.³

Where there is no statute or ordinance making a passenger's evasion of the payment of a fare to a common carrier a criminal offense, it has been held that such an evasion or attempt to evade the payment of fare is not ground for arrest of a passenger since it does not constitute a crime.⁴

An honest belief on the part of an employee of a common carrier that riding on a conveyance without payment of fare is a criminal offense does not constitute a defense to a common carrier in an action for false arrest or imprisonment.⁵

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Footnotes

- ¹ Polonsky v. Pennsylvania R. Co., 184 F. 561 (C.C.A. 2d Cir. 1911); La Chance v. Berlin St. Ry., 79 N.H. 291, 109 A. 720 (1919).
As to proper manner and procedure of making arrests, see Am. Jur. 2d, Arrest §§ 67 to 102.
- ² Crotois v. Pennsylvania R. Co., 81 N.J.L. 640, 81 A. 107 (N.J. Ct. Err. & App. 1911).
- ³ Hyman v. New York Cent. R. Co., 240 N.Y. 137, 147 N.E. 613, 39 A.L.R. 858 (1925).
- ⁴ Ft. Smith & Van Buren Dist. v. Kidd, 153 Ark. 489, 241 S.W. 374 (1922); Squires v. Southern Pac. Co., 42 Cal. App. 459, 183 P. 695 (2d Dist. 1919); Wright v. Georgia Southern & F. Ry. Co., 66 Fla. 510, 63 So. 909 (1913); Hobbs v. Illinois Cent. R. Co., 182 Iowa 316, 165 N.W. 912 (1917); Chicago, R.I. & P. Ry. Co. v. Radford, 1913 OK 7, 36 Okla. 657, 129 P. 834 (1913); Comisky v. Norfolk & W. Ry. Co., 79 W. Va. 148, 90 S.E. 385 (1916).
- ⁵ Jacobs v. Third Ave. R. Co., 71 A.D. 199, 75 N.Y.S. 679 (1st Dep't 1902).

14 Am. Jur. 2d Carriers § 1148

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Part Two. Carriage of Property

XXVII. Liability for Arrest and False Imprisonment

A. In General

§ 1148. Federal preemption of state law regarding arrest and false imprisonment claims

[Topic Summary](#) | [Correlation Table](#) | [References](#)

West's Key Number Digest

West's Key Number Digest, [Carriers](#) 350, 375

West's Key Number Digest, [False Imprisonment](#) 1 to 16

State law applies to false imprisonment claims brought by airline passengers alleging that members of a flight crew improperly profiled them on the basis of race or national origin, used that as a basis to remove them from an aircraft, or caused law enforcement authorities to detain them. Such claim is not preempted by federal law.¹ The federal airline deregulation law preempts state laws only as to price, route, or service of an air carrier.² Thus, the deregulation law does not preempt state false imprisonment claims alleging that an airline made an unreasonable decision to board passengers and leave the gate when weather conditions made approval of departure unlikely, and the crew prohibited passengers from obtaining water or moving around under threat of arrest.³

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¹ [Al-Watan v. American Airlines, Inc.](#), 570 F. Supp. 2d 925 (E.D. Mich. 2008) (applying Michigan law; no preemption by the Airline Deregulation Act, 49 U.S.C.A. § 41713).

As to federal preemption of state law in the area of commerce, generally, see [Am. Jur. 2d, Commerce § 29](#).

As to security measures on airlines, including the screening of passengers, see [Am. Jur. 2d, Aviation §§ 69, 70](#).

As to equal protection claims against profiling, see [Am. Jur. 2d, Constitutional Law § 941](#).

² [Kalantar v. Lufthansa German Airlines](#), 402 F. Supp. 2d 130 (D.D.C. 2005).

³ [Perdigao v. Delta Airlines, Inc.](#), 973 So. 2d 33 (La. Ct. App. 5th Cir. 2007).

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XXVII. Liability for Arrest and False Imprisonment

A. In General

§ 1149. Federal preemption of state law regarding arrest and false imprisonment claims—Federal antiterrorism laws

[Topic Summary](#) | [Correlation Table](#) | [References](#)

West's Key Number Digest

West's Key Number Digest, [Carriers](#) 350, 375

West's Key Number Digest, [False Imprisonment](#) 1 to 16

A federal statute provides that any air carrier or a carrier's employee who makes a voluntary disclosure of any suspicious transaction relevant to a possible violation of law or regulation relating to air piracy, a threat to aircraft or passenger safety, or terrorism to any employee or agent of the Department of Transportation; the Department of Homeland Security; the Department of Justice; any federal, state, or local law enforcement officer; or any airport or airline security officer cannot be held civilly liable for such disclosure.¹ This does not apply, however, to any disclosure made with actual knowledge that the disclosure was false, inaccurate, or misleading, or any disclosure made with reckless disregard as to the truth or falsity of that disclosure.²

The antiterrorism statute did not protect an airline from false arrest liability when it not only informed an airport commission that Muslim imams were acting in a terroristic fashion but also allegedly actively sought their arrest.³

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¹ [49 U.S.C.A. § 44941\(a\)](#). “Terrorism” refers to “act of terrorism,” as defined by [18 U.S.C.A. § 3077\(1\)](#), which refers to the definition of “international terrorism” in [18 U.S.C.A. § 2331\(1\)](#).

As to security measures on airlines, including the screening of passengers, see Am. Jur. 2d, Aviation §§ 69, 70.

² [49 U.S.C.A. § 44941\(b\)](#).

³ [Shqeirat v. U.S. Airways Group, Inc.](#), 515 F. Supp. 2d 984 (D. Minn. 2007).

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14 Am. Jur. 2d Carriers § 1150

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XXVII. Liability for Arrest and False Imprisonment

A. In General

§ 1150. Carrier's liability for failure to protect a passenger from arrest

[Topic Summary](#) | [Correlation Table](#) | [References](#)

West's Key Number Digest

West's Key Number Digest, [Carriers](#) 350, 375

West's Key Number Digest, [False Imprisonment](#) 1 to 15

A common carrier of passengers is not liable for the failure of its employees to interfere with the arrest of a passenger made by a law enforcement officer where the arrest is apparently regular and there is nothing to put the employees on notice that the arrest is illegal.¹ Also, an employee of a carrier is under no duty to make an investigation to ascertain if persons whom the employees know to be officers of the law have a warrant for the arrest of a passenger or to find out whether the charge on which they are proceeding is one for which an arrest can be legally made.² However, if the employees of the common carrier have notice that an arrest is unlawful or is made by a person who lacks the proper authority, the general rule as to the liability of a carrier for failure to protect its passengers against the wrongful acts of third persons applies.³

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Footnotes

¹ Brunswick & W.R. Co. v. Ponder, 117 Ga. 63, 43 S.E. 430 (1903); Owens v. Wilmington & W. R. Co., 126 N.C. 139, 35 S.E. 259 (1900); Texas Midland R.R. v. Dean, 98 Tex. 517, 85 S.W. 1135 (1905); Clark v. Norfolk & W. Ry. Co., 84 W. Va. 526, 100 S.E. 480, 7 A.L.R. 117 (1919).

² Mayfield v. St. Louis, I.M. & S. Ry. Co., 97 Ark. 24, 133 S.W. 168 (1910).

³ Mayfield v. St. Louis, I.M. & S. Ry. Co., 97 Ark. 24, 133 S.W. 168 (1910); Louisville & N.R. Co. v. Byrley, 152 Ky. 35, 153 S.W. 36 (1913); Anania v. Norfolk & W. Ry. Co., 77 W. Va. 105, 87 S.E. 167 (1915).

As to the liability of common carriers for the wrongful acts of third persons, see §§ 882 to 886.

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Part Two. Carriage of Property

XXVII. Liability for Arrest and False Imprisonment

B. Particular Persons for Whose Acts a Carrier May Be Liable

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Research References

West's Key Number Digest

West's Key Number Digest, [Carriers](#) 350, 375

West's Key Number Digest, [False Imprisonment](#) 1 to 15

A.L.R. Library

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West's A.L.R. Digest, [Carriers](#) 350, 375

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14 Am. Jur. 2d Carriers § 1151

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Part Two. Carriage of Property

XXVII. Liability for Arrest and False Imprisonment

B. Particular Persons for Whose Acts a Carrier May Be Liable

§ 1151. Conductor, operator, or driver; liability for arrest or false imprisonment

[Topic Summary](#) | [Correlation Table](#) | [References](#)

West's Key Number Digest

West's Key Number Digest, [Carriers](#) 350, 375

West's Key Number Digest, [False Imprisonment](#) 15(1) to 15(3)

A common carrier of passengers is liable for the false arrest or imprisonment of a passenger that is caused or procured by a conductor, operator, or driver acting within the course and scope of employment.¹ A common carrier is also liable for a wrongful arrest caused by a conductor, operator, or driver to protect the passengers under that person's care² or where this method is adopted by the conductor, operator, or driver for the ejection of the passenger from the conveyance.³

The liability of a common carrier for an unlawful arrest and imprisonment procured by its conductor, operator, or driver is limited to what is said and done at the time the passenger is being ejected or to only those things said and done that are so closely associated with the act that they may be regarded as a part of it.⁴ Thus, a railroad company was not liable for the unauthorized act of its conductor in swearing out a warrant of arrest for the plaintiff on the next day after the plaintiff was ejected from a train.⁵

Caution:

Even a trespasser may recover for a wrongful arrest or imprisonment caused by a common carrier's conductor acting within the scope of employment or authority.⁶

A bus driver's getting lost, thereby holding a passenger for several hours, does not amount to a false imprisonment.⁷

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Footnotes

- ¹ [Elser v. Southern Pac. Co.](#), 7 Cal. App. 493, 94 P. 852 (1st Dist. 1908); [Dennis v. Baltimore Transit Co.](#), 189 Md. 610, 56 A.2d 813 (1948); [Dwyer v. St. Louis Transit Co.](#), 108 Mo. App. 152, 83 S.W. 303 (1904); [Jacobs v. Third Ave. R. Co.](#), 71 A.D. 199, 75 N.Y.S. 679 (1st Dep't 1902); [Cleveland Ry. Co. v. Durschuk](#), 31 Ohio App. 248, 166 N.E. 909 (8th Dist. Cuyahoga County 1928); [Hotzel v. Simmons](#), 258 Wis. 234, 45 N.W.2d 683 (1951).
- ² [Gulf, C. & S.F. Ry. Co. v. Besser](#), 200 S.W. 263 (Tex. Civ. App. Beaumont 1918), writ dismissed w.o.j., (Jan. 22, 1919).
- ³ [Dobbins v. Little Rock Ry. & Elec. Co.](#), 79 Ark. 85, 95 S.W. 794 (1906); [Boden v. St. Louis Transit Co.](#), 108 Mo. App. 696, 84 S.W. 181 (1904).
- ⁴ [Dickinson v. Muse](#), 135 Ark. 76, 204 S.W. 609 (1918).
- ⁵ [St. Louis, I.M. & S. Ry. Co. v. Waters](#), 105 Ark. 619, 152 S.W. 137 (1912).
- ⁶ [Kansas City, M. & O. Ry. Co. of Texas v. Walsh](#), 148 S.W. 347 (Tex. Civ. App. Fort Worth 1912), writ refused.
- ⁷ [School Bd. of Miami-Dade County, Florida v. Trujillo](#), 906 So. 2d 1109, 200 Ed. Law Rep. 910 (Fla. 3d DCA 2005) (parents of four-year-old special needs student on bus for four hours before arriving at school did not establish false imprisonment claim against school board).

14 Am. Jur. 2d Carriers § 1152

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XXVII. Liability for Arrest and False Imprisonment

B. Particular Persons for Whose Acts a Carrier May Be Liable

§ 1152. Conductor, operator, or driver; liability for arrest or false imprisonment—Acts outside the scope of employment

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West's Key Number Digest

West's Key Number Digest, [Carriers](#) 350, 375

West's Key Number Digest, [False Imprisonment](#) 15(1) to 15(3)

Although a common carrier of passengers is liable for the false arrest or imprisonment of a passenger caused or procured by a conductor, operator, or driver acting within the course and scope of employment,¹ a common carrier is not liable for such an arrest where it is caused or procured by a conductor, operator, or driver who is not acting within the course and scope of employment.² Thus, a conductor, operator, or driver cannot make a common carrier liable by causing the wrongful arrest or imprisonment of a passenger where the arrest or imprisonment is not for an offense affecting the safety of the passengers.³ Also, it is not within the scope of the general employment of a conductor and other employees upon a passenger train, after they have ejected a trespasser, to tortiously charge the trespasser with a crime and cause an arrest.⁴

Footnotes

¹ § 1151.

² *Ward v. Housatonic Area Regional Transit Dist.*, 154 F. Supp. 2d 339 (D. Conn. 2001) (applying Connecticut law; because bus driver was not acting pursuant to any company policy nor did he have authority to make policy when he detained passenger on bus, transit company could not be held liable); *Arkansas Central Power Co. v. Hildreth*, 174 Ark. 529, 296 S.W. 33 (1927); *Lichtenstein v. New Orleans Ry. & Light Co.*, 158 La. 284, 103 So. 769 (1925); *Presley v. Ft. Worth & D.C. Ry. Co.*, 145 S.W. 669 (Tex. Civ. App. Amarillo 1912).

³ *St. Louis, I.M. & S. Ry. Co. v. Sims*, 106 Ark. 109, 152 S.W. 985 (1913).

⁴ *Wright v. Georgia Southern & F. Ry. Co.*, 66 Fla. 510, 63 So. 909 (1913).

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14 Am. Jur. 2d Carriers § 1153

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Part Two. Carriage of Property

XXVII. Liability for Arrest and False Imprisonment

B. Particular Persons for Whose Acts a Carrier May Be Liable

§ 1153. Conductor, operator, or driver; liability for arrest or false imprisonment—Statutory provisions

[Topic Summary](#) | [Correlation Table](#) | [References](#)

West's Key Number Digest

West's Key Number Digest, [Carriers](#) 350, 375

West's Key Number Digest, [False Imprisonment](#) 15(1) to 15(3)

In addition to the right conferred upon a common carrier to eject from its conveyance a passenger guilty of disorderly or offensive conduct,¹ the statutes of some states authorize the conductor or operator of the conveyance to arrest such a passenger or to detain and deliver the passenger to the proper public authorities.² However, the fact that a conductor is clothed, by virtue of such statutes, with specific police powers in making arrests upon a conveyance does not relieve the common carrier from liability for a conductor's unauthorized and unlawful acts resulting in the false arrest or imprisonment of a passenger.³ Under such a statute, a common carrier may be liable for the conductor's illegal acts in the exercise, in the carrier's business, of the public authority that it has caused to be conferred on the conductor.⁴

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Footnotes

1 § 1033.

2 *Arpin v. Santa Clara Valley Transp. Agency*, 261 F.3d 912 (9th Cir. 2001) (applying a California statute; bus driver making citizen's arrest); *Mason v. Nashville, C. & St. L. Ry. Co.*, 135 Ga. 741, 70 S.E. 225 (1911); *Houston v. Minneapolis, St. P. & S.S.M. Ry. Co.*, 25 N.D. 469, 141 N.W. 994 (1913).

As to the arrest of passengers under a statute making an evasion of a fare a criminal offense, see § 1147.

3 *Hull v. Boston & M.R.R.*, 210 Mass. 159, 96 N.E. 58 (1911).

4 *La Chance v. Berlin St. Ry.*, 79 N.H. 291, 109 A. 720 (1919).

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14 Am. Jur. 2d Carriers § 1154

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Part Two. Carriage of Property

XXVII. Liability for Arrest and False Imprisonment

B. Particular Persons for Whose Acts a Carrier May Be Liable

§ 1154. Dispatcher or announcer; liability for arrest or false imprisonment

[Topic Summary](#) | [Correlation Table](#) | [References](#)

West's Key Number Digest

West's Key Number Digest, [Carriers](#) 350, 375

West's Key Number Digest, [False Imprisonment](#) 1 to 15

A train announcer acts within the scope of the announcer's authority when causing the arrest of a passenger after the passenger has left the station on a charge of stealing a suitcase so as to make a common carrier liable for a false arrest.¹ However, a common carrier of passengers is not liable for a false imprisonment of a passenger caused or that is procured by its dispatcher where the common carrier does not authorize or ratify the act of its dispatcher in swearing out a warrant for the arrest of a passenger who refused to comply with its rules and regulations.²

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Footnotes

¹ [Harris v. Terminal R. Ass'n of St. Louis](#), 203 Mo. App. 324, 218 S.W. 686 (1920).

² Pridgen v. Carolina Coach Co., 229 N.C. 46, 47 S.E.2d 609 (1948).

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Part Two. Carriage of Property

XXVII. Liability for Arrest and False Imprisonment

B. Particular Persons for Whose Acts a Carrier May Be Liable

§ 1155. Passenger or station agent; liability for arrest or false imprisonment

[Topic Summary](#) | [Correlation Table](#) | [References](#)

West's Key Number Digest

West's Key Number Digest, [Carriers](#) 350, 375

West's Key Number Digest, [False Imprisonment](#) 15(1) to 15(3)

A common carrier of passengers may be liable for the acts of a station or passenger agent in causing the wrongful arrest of a passenger where such acts were performed in the furtherance of the carrier's business or within the scope of the agent's employment.¹ Thus, a common carrier is liable for the act of its station agent in forcibly taking by the arm and leading through the streets, to a police officer, a passenger who had been wrongfully ejected from a conveyance.² Similarly, a common carrier is liable for an unlawful arrest that is directed or induced by its station agent as a means of effecting a wrongful detention of a passenger's baggage.³ However, a common carrier is not liable for a false arrest or imprisonment caused or procured by a station or passenger agent not acting within the scope and course of employment.⁴

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Footnotes

¹ Chicago & A. Ry. Co. v. Gwin, 125 Ill. App. 456, 1906 WL 1745 (3d Dist. 1906); Johnson v. Norfolk & W. Ry. Co., 82 W. Va. 692, 97 S.E. 189, 6 A.L.R. 1469 (1918).

² Hull v. Boston & M.R.R., 210 Mass. 159, 96 N.E. 58 (1911).

³ Johnson v. Norfolk & W. Ry. Co., 82 W. Va. 692, 97 S.E. 189, 6 A.L.R. 1469 (1918).

⁴ Mayfield v. St. Louis, I.M. & S. Ry. Co., 97 Ark. 24, 133 S.W. 168 (1910).

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14 Am. Jur. 2d Carriers § 1156

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Part Two. Carriage of Property

XXVII. Liability for Arrest and False Imprisonment

B. Particular Persons for Whose Acts a Carrier May Be Liable

§ 1156. Ticket agent; liability for arrest or false imprisonment

[Topic Summary](#) | [Correlation Table](#) | [References](#)

West's Key Number Digest

West's Key Number Digest, [Carriers](#) 350, 375

West's Key Number Digest, [False Imprisonment](#) 15(1) to 15(3)

A common carrier of passengers is not liable for a false arrest or imprisonment that is caused or procured by a ticket agent where the ticket agent is not acting within the scope of employment.¹ The appointment of a person as cashier at a railway station with power to sell tickets and collect money does not ordinarily confer the implied authority to cause the arrest of those whom the cashier suspects of fraud or dishonest practices so as to render a common carrier liable for a false arrest.² However, a ticket agent who summons the police to report that a passenger is talking about a bomb has been held protected by a citizen's privilege to report an alleged crime and identify an offender.³

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Footnotes

¹ [Dickinson v. Muse](#), 135 Ark. 76, 204 S.W. 609 (1918).

2 [Daniel v. Atlantic Coast Line R. Co., 136 N.C. 517, 48 S.E. 816 \(1904\).](#)

3 [Lewis v. Continental Airlines, Inc., 80 F. Supp. 2d 686 \(S.D. Tex. 1999\).](#)

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Part Two. Carriage of Property

XXVII. Liability for Arrest and False Imprisonment

B. Particular Persons for Whose Acts a Carrier May Be Liable

§ 1157. Gate person or baggagemaster; liability for arrest or false imprisonment

[Topic Summary](#) | [Correlation Table](#) | [References](#)

West's Key Number Digest

West's Key Number Digest, [Carriers](#) 350, 375

West's Key Number Digest, [False Imprisonment](#) 15(1) to 15(3)

A common carrier of passengers may be liable for a false arrest or imprisonment that is caused or procured by a gate person acting within the course of employment,¹ but it is not liable where the gate person is not acting within the scope of employment.²

However, on the principle that a common carrier undertakes to protect a passenger against any injury arising from the willful misconduct of its employees, a carrier may be liable for a wrongful arrest instigated by its baggagemaster, irrespective of the fact that the arrest was not within the scope of the employee's duties.³

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Footnotes

¹ [Norfolk & W. Ry. Co. v. Perdue](#), 117 Va. 111, 83 S.E. 1058 (1915).

² [Chicago, R.I. & P. Ry. Co. v. Nelson, 87 Ark. 524, 113 S.W. 44 \(1908\).](#)

³ [Texas Midland R.R. v. Dean, 98 Tex. 517, 85 S.W. 1135 \(1905\).](#)

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Part Two. Carriage of Property

XXVII. Liability for Arrest and False Imprisonment

B. Particular Persons for Whose Acts a Carrier May Be Liable

§ 1158. Private detective or police officer; liability for arrest or false imprisonment

[Topic Summary](#) | [Correlation Table](#) | [References](#)

West's Key Number Digest

West's Key Number Digest, [Carriers](#) 350, 375

West's Key Number Digest, [False Imprisonment](#) 15(1) to 15(3)

A common carrier of passengers is liable for a false arrest or imprisonment that is caused or procured by a private detective or police officer in its employ while acting within the course and scope of employment.¹ Thus, where a private detective or police officer who is employed by a common carrier has the express authority to arrest or cause the arrest of offenders, or such authority is clearly implied from the general scope of such person's duties, the carrier is liable for a wrongful arrest.² However, the mere fact that a person is employed by a common carrier as a private detective or police officer does not necessarily import the authority to make arrests,³ and a common carrier is not liable for such an arrest where it was outside the scope of the person's real or apparent authority.⁴

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Footnotes

- ¹ Missouri Pac. R. Co. v. Hill, 200 Ark. 253, 138 S.W.2d 783 (1940); Thompson v. St. Louis-San Francisco Ry. Co., 3 S.W.2d 1033 (Mo. Ct. App. 1928); Keidel v. Baltimore & O. R. Co., 281 Pa. 289, 126 A. 770 (1924).
- ² Director General of Railroads v. Kastenbaum, 263 U.S. 25, 44 S. Ct. 52, 68 L. Ed. 146 (1923); Missouri, K. & T. Ry. Co. of Texas v. Thompson, 183 S.W. 8 (Tex. Civ. App. Austin 1915), writ refused, (Dec. 6, 1916).
- ³ Grand Rapids & I. Ry. Co. v. King, 41 Ind. App. 701, 83 N.E. 778 (1908).
- ⁴ Taylor v. Erie R. Co., 268 N.Y. 711, 198 N.E. 570 (1935).

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Part Two. Carriage of Property

XXVII. Liability for Arrest and False Imprisonment

B. Particular Persons for Whose Acts a Carrier May Be Liable

§ 1159. Special police officer appointed by a public authority; liability for arrest or false imprisonment

[Topic Summary](#) | [Correlation Table](#) | [References](#)

West's Key Number Digest

West's Key Number Digest, [Carriers](#) 350, 375

West's Key Number Digest, [False Imprisonment](#) 15(1) to 15(3)

In the absence of a statute to the contrary, a common carrier of passengers is not liable for a false arrest or imprisonment caused by a special police officer, appointed by a public authority but employed and paid by the common carrier, where the arrest occurs while the officer is acting in an official capacity as a public police officer.¹ There is a presumption that such an officer acts in an official capacity in making the arrest.² However, a common carrier may be liable for a false arrest that is caused by such an officer acting on behalf of the common carrier or under the direction of the common carrier and not for the public.³

Practice Tip:

Whether a police officer is acting in an official capacity or on behalf of a common carrier in making an arrest is a question of fact for determination by a jury.⁴

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Footnotes

- ¹ Charles v. Norfolk & W. Ry. Co., 188 F.2d 691 (7th Cir. 1951); Kennedy v. Central R. Co. of New Jersey, 236 A.D. 478, 260 N.Y.S. 839 (1st Dep't 1932); Houston v. Minneapolis, St. P. & S.S.M. Ry. Co., 25 N.D. 469, 141 N.W. 994 (1913); Darden v. Louisville & N. R. Co., 171 Ohio St. 63, 12 Ohio Op. 2d 82, 167 N.E.2d 765 (1960); Bunting v. Pennsylvania R. Co., 284 Pa. 117, 130 A. 306 (1925); McKain v. Baltimore & O. R. Co., 65 W. Va. 233, 64 S.E. 18 (1909).
- ² Erie R. Co. v. Johnson, 106 F.2d 550, 16 Ohio Op. 1 (C.C.A. 6th Cir. 1939); La Chance v. Berlin St. Ry., 79 N.H. 291, 109 A. 720 (1919); Naugle v. Pennsylvania R. Co., 83 Pa. Super. 528, 1924 WL 4051 (1924); McKain v. Baltimore & O. R. Co., 65 W. Va. 233, 64 S.E. 18 (1909).
- ³ Charles v. Norfolk & W. Ry. Co., 188 F.2d 691 (7th Cir. 1951); Missouri Pac. R. Co. v. Yancey, 178 Ark. 147, 10 S.W.2d 22 (1928); Central of Georgia Ry. Co. v. Dabney, 44 Ga. App. 143, 160 S.E. 818 (1931); Louisville & N.R. Co. v. Mason, 199 Ky. 337, 251 S.W. 184 (1923); Hull v. Boston & M.R.R., 210 Mass. 159, 96 N.E. 58 (1911); Winegar v. Chicago, B. & Q. R. Co., 163 S.W.2d 357 (Mo. Ct. App. 1942); Taylor v. New York & L.B.R. Co., 80 N.J.L. 282, 78 A. 169 (N.J. Ct. Err. & App. 1910); Darden v. Louisville & N. R. Co., 171 Ohio St. 63, 12 Ohio Op. 2d 82, 167 N.E.2d 765 (1960); Spain v. Oregon-Washington R. & Nav. Co., 78 Or. 355, 153 P. 470 (1915); Rice v. Harrington, 38 R.I. 47, 94 A. 736 (1915).
- ⁴ Missouri Pac. R. Co. v. Yancey, 178 Ark. 147, 10 S.W.2d 22 (1928); Central of Georgia Ry. Co. v. Dabney, 44 Ga. App. 143, 160 S.E. 818 (1931); Winegar v. Chicago, B. & Q. R. Co., 163 S.W.2d 357 (Mo. Ct. App. 1942); Kennedy v. Central R. Co. of New Jersey, 236 A.D. 478, 260 N.Y.S. 839 (1st Dep't 1932) (applying New Jersey law).

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